

Appl. No. 09/314,593
Amdt dated August 7, 2003

REMARKS/ARGUMENTS

In the Office Action dated May 7, 2003, the Examiner indicated on page 2, in paragraph 2 that Claims 1-5, 10-12, 17-19, 23 and 69-73 were rejected under §112 for containing subject matter not described in the specification ... According to the specification, p.8 lines 11-12 the information duration is the length of time needed to play out the information in real time.

In response, Applicant has amended Claim 1 to recite "play out the information" instead of "collect the information." Claim 69 is similarly amended. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection of Claims 1-5, 10-12, 17-19, 23 and 69-73.

In the above-identified Office Action, the Examiner indicated on page 3, in paragraph 4 that Claims 7-9, 34-35, and 66-68 were rejected under §112 for being indefinite. Claims 7-9 were canceled in the previous amendment, and therefore the Examiner's rejection is improper (because canceled claims cannot be rejected). In addition, Claims 31-33 that were based on Claims 7-9 were indicated as being allowed, and therefore there is no §112 issue to be addressed.

Claim 34 was rejected because the Examiner said it was not clear what is meant by performance as a whole. Claim 34 has been amended to eliminate reference to this term. However, Applicant submits that the meaning of this term is well understood in the art, in view of a statement (in the specification) that the system performance is defined to be performance of the device and of the network, as a whole (see page 4, lines 8-9 and also page 9, lines 28-29). For example, as would be apparent to the skilled artisan (in view of Applicant's disclosure), if a network becomes overloaded and the network's performance falls, then a device that is forming the packets may be programmed to automatically reduce the number of packets being supplied to the network, so that the networks' performance improves (e.g. latency improves).

Claim 35 was rejected because the Examiner said it was not clear what is meant by "represents a reduction." It is not clear what is being reduced (reduction in what). In response, Claim 35 is amended to recite that the reduction is in transmission of streaming information. Support for the amendment to Claim 35 is found throughout the originally-filed specification, including, for example, page 4, line 4 and lines 8-9.

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Claim 66 was rejected because the Examiner stated that the phrase "hereinafter" is vague. Accordingly, Applicant has amended Claim 66 to eliminate this limitation. For the above-discussed reasons Applicant respectfully requests the Examiner to withdraw the rejection of Claims 34, 35 and 66.

Claim 69 was rejected over the teachings of Karasawa (6,333,950), in paragraph 6 on page 4 of the Office Action. Applicant submits that Karasawa merely teaches use of a video encoder and an audio encoder that supply video and audio streams to packetizers 303 and 304 that in turn generate variable length packets. There appears to be no suggestion whatsoever in Karasawa to change operation of the just-described circuitry, to increase (or reduce) the duration of time over which the information contained in a packet is to be played out in real time.

In contrast to Karasawa, Claim 69 requires two means, that can respectively generate packets containing information to be played out over two different lengths of time, in real time. Specifically, in an example described at page 10, lines 19-24, first means can generate a packet containing information to be played out a first duration of 10 milliseconds and second means generates a packet containing information to be played over a second duration of 20 milliseconds. There appears to be no suggestion by Karasawa, to switchably generate two different types of packets, each of which can be played out over different durations. For at least this reason, Applicants respectfully request the Examiner to withdraw the prior art rejection of Claim 69.

In the above-identified Office Action, the Examiner rejected Claims 17-19, 1-5, 10-13 and 63 at page 5 in paragraph 8, over the combined teachings of Kudo and Brent. The Examiner's language in support of the rejection was identical to the language used in a prior Office Action dated December 2, 2002 (see paragraph 2 on page 2). Applicant submits that the **Examiner failed** to take note of the arguments made by Applicant in the Amendment dated September 5, 2002 in view of the clarification of the claim term "duration" as mentioned in the Amendment dated March 3, 2003. For this reason, the arguments made in the Amendment dated September 5, 2002 at pages 7-11 are incorporated by reference herein in their entirety. Applicant submits that these arguments are fully persuasive to distinguish the currently-rejected Claims 17-19, 1-5, 10-13 and 63 over the combined teachings of Kudo and Brent.

Claims 36-38 that were rejected over the teachings of Karasawa are canceled without prejudice. Claims 39-53 were indicated as being allowable if rewritten in independent form

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(see Office Action of May 7, at paragraph 11 on page 8). Accordingly, Claim 39 is rewritten to recite all limitations of Claim 36. In addition, Claims 40-57 are rewritten to depend either directly or indirectly from Claim 39. Claims 40-57 are believed to be allowable over the prior art of record for at least the same reasons as Claim 39. Note that the Examiner's rejection of Claims 54-56 is moot in view of the dependence of these claims from allowable Claim 39.

Claims 58-62 were indicated as being rejected in the Office Action Summary, but the **Examiner failed** to provide any reason for rejection. Applicant submits that in the absence of such reason, Claims 58-62 must be allowed.

Claim 63 is believed to be patentable over the cited prior art, at least because Applicant submits that it is counter-intuitive to a skilled artisan to simply increase the size of a packet (by increasing the number of snippets), in response to an increase in processing requirements. On the contrary, when network load increases, the skilled artisan would normally reduce the packet size (with an intention to reduce the load). Therefore, Applicant submits that in order for the Examiner to sustain a rejection of Claim 63, the Examiner must show that prior art teaches increasing packet size, in response to an increase in processing requirements (such as network load). Claims 64-68 depend from Claim 63 and are believed to be allowable for at least the same reasons as Claim 63.

In view of the above remarks, Applicant submits that all currently pending claims are in form for allowance and allowance thereof is respectfully requested. If there are any questions, please call the undersigned at (408) 982-8200, extension 3.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office to the fax number 703-872-9314 on August 7, 2003.

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Aug 7, 2003
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